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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/701,235

11/04/2003

Robert A. West

03-987

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12/11/2006

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EXAMINER

BARTLEY, KENNETH

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,235

Applicant(s)

WEST, ROBERT A.

Examiner

Kenneth L. Bartley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. Claims 1-30 have been examined.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

3. The disclosure is objected to because of the following informalities: on page 12, the "exchange" is referenced as "104" instead of "100"; and on page 14, the word "patters" does not make sense.

Appropriate correction is required.

4. The use of the trademark X\_TRADER and MD TRADER has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

1. Claims 18 and 19 are objected to because of the following informalities: it appears a numbering error occurred since they both reference claim 16 but follow claim 17. Appropriate correction is required.

### ***Double Patenting***

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No.11/415395. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,339,392 to Risberg and Skeen.

7. Regarding applicant claims 1, 7, 8, 17, and 21, Risberg and Skeen disclose:

a. An apparatus and method using a computer facility that provides an “active document” (col. 2, lines 27-39). The active document is a video displayed document of one or more “sheets” that incorporate real time data and can use alarm scripts. Alarm scripts are commands that are processed when an alarm limit is exceeded. The preferred usage is in a financial environment, such as a trading floor of a broker (col. 2, lines 48-52);

b. Several sheets displayed in separate windows or layers on the display (col. 5, lines 33-37), where the sheets contain “active objects” which are linked to programs (col. 19, lines 66-68 and col. 20, lines 1-4; col. 5, lines 50-54).

Therefore the sheets can be associated with at least two applications;

c. An “Event Trigger” for trigger-on and trigger-off states can be used to define an alarm condition, which then activates an “Event Script.” (col. 23, lines 5-18). When a limit is exceeded, an alarm condition transfers an “Active Object” from a normal update state to an alert state (col. 23, lines 7-12). Therefore, a

trigger can be used to activate the workspace and the script written to allow or restrict activation of window(s).

Also, it is useful "...to set upper and/or lower alarm limits for any or all real time data displayed on any sheet and to define scripts of actions to take if the value of the real time data exceeds these limits." (col. 2, lines 7-11). This would allow for limiting conditions to be placed on "active objects" that are a window characteristic;

d. Alert scripts for changing a color, flashing an object, executing an external program and other means that would detect an alarm (col. 4, lines 19-23);

e. It is possible to show one sheet or many sheets in separate windows or layers on the display (col. 5, lines 33-37), providing the ability to change a state of a plurality of windows being displayed.

8. Regarding applicant claims 2 and 18, Risberg and Skeen disclose a program used in a distributed system architecture embodied in a local area network coupling workstations and personal computers (col. 4, lines 35-39).

9. Regarding applicant claims 3, 9, 10, 19 and 22, Risberg and Skeen show that buttons can be programmed to perform an operation with or without an alert condition (col. 4, lines 16-19). Therefore, using scripts, an alert could be detected, the user notified of a limiting condition, and a button pressed to activate the virtual workspace to change the state of a plurality of windows being displayed.

10. Regarding claims 4, 6, 20, 23 and 24, Risberg and Skeen define a state diagram (Fig. 2) for normal (trigger-off) and alert (trigger-on) states as well as conditions leading

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to (begin alert) and ending (end alert) an alert (col. 10, lines 4-28). When an update returns to the normal range (is detected), the "end alert" script is run followed by the "normal" alert script. Also, scripting language includes traversal options to move to different sheets (col. 17, lines 62-63). This would allow for display or non-display of sheet(s), depending on how a script was written, based on a trigger-on or trigger-off state.

11. Regarding applicant claim 5, Risberg and Skeen mention XWindows and Microsoft Windows as possible display systems (col. 21, lines 2-19). Therefore, a trigger-on state would be in a windows environment. Further, a "Graph tool" allows creation of "graph Active Objects" that track real time variations such as market value (col. 12, lines 45-48).

12. Regarding claims 11-14, and 25-28, Risberg and Skeen provide a quote object for market price quotation (col. 9, lines 20-26), where the quotes are able to trigger an alert using a script (col. 10, lines 4-7). The script is a "user defined string" of commands (col. 10, lines 9-11) that could include trader related data by adding stock quotes of interest. Financial information from elementized data feeds can be managed with an "Active Document" (col. 18, lines 45-60 and Fig. 3) that could be used to monitor P/L and net position.

13. Regarding claims 15, 16, 29, and 30, Risberg and Skeen teach "Any complex system which generates real time data... are subject to being monitored and controlled using the teaching of the invention." (col. 2, lines 52-55). An "...Event Trigger is a specification of conditions under which the user wishes to do extra processing on the

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Active Object." (col. 23, lines 5-7). An Active Object includes market/news data (col. 7, lines 64-66 and 14 in Fig. 1).

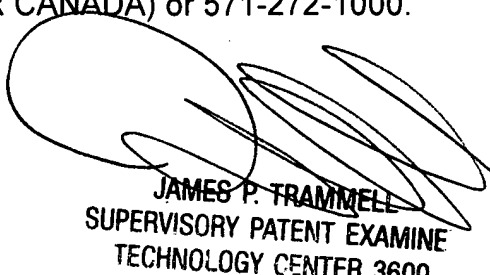


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth L. Bartley whose telephone number is (571) 272-5230. The examiner can normally be reached on Monday through Friday, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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